



IFW

UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Inventors: Sadaki FUTAGI, et al. Art Unit: 2618
Application No.: 09/933,038 Examiner: L. Nguyen
Filed: August 21, 2001
For: RADIO COMMUNICATION APPARATUS AND CHANNEL
ESTIMATING METHOD

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Assistant Commissioner of Patents
Washington, DC 20231

Dear Sir:

In response to the Election of Species Requirement dated August 9, 2006, the applicant hereby elects Species I, Claims 1, 9, 10, 12 and 13, with traverse. The office action has deemed claim 12 as generic. Under 37 CFR 1.141, upon allowance of a generic claim, the Applicants are entitled to consideration of the remaining species.

The Applicant respectfully requests withdrawal of the Election of Species Requirement. No unduly extensive or burdensome search would be required to examine the claims of the various species in the same application. MPEP §803 states:

"If the search and examination of all the claims in an application can be made without serious burden, the Examiner *must* examine them on the merits, even though they include claims to distinct or independent inventions." (Emphasis added)

In the present case, the search for all pending claims together would not be burdensome, since the fields of search would likely overlap and pertinent art to the claims of the identified species would likely be found while searching each of the inventions individually.

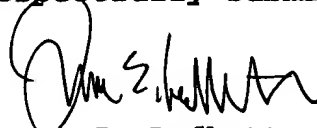
Moreover, from the standpoint of costs to the applicant involved in filing, issuance and maintenance fees relating to separate applications if the present requirement were maintained, it is clear that there is substantially more burden on the Applicant by imposing the present requirement than on the Patent Office if the requirement were withdrawn.

In addition, it is noted that to require the claims of the various species to issue in separate patents would result in inconvenience to the public by necessitating reference to more than one patent during searching, in order to review closely related subject matter.

Therefore, withdrawal of the election requirement is warranted.

Reconsideration and withdrawal of the election requirement
are respectfully requested.

Respectfully submitted,



James E. Ledbetter
Registration No. 28,732

Date: September 6, 2006

JEL/ejw

ATTORNEY DOCKET NO. L9289.01172

STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
1615 L Street, NW
P.O. Box 34387
Washington, DC 20043-4387
Telephone: (202) 408-5100
Facsimile: (202) 408-5200